

**STATE OF WASHINGTON****OFFICE OF  
INSURANCE COMMISSIONER****BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON**

IN THE MATTER OF	)	
	)	CONSENT AND ORDER LEVYING A
	)	FINE
GUARANTY NATIONAL	)	
INSURANCE COMPANY	)	No. <u>D 01 - 81</u>
	)	
Authorized Insurer.	)	

**FINDINGS OF FACT:**

1. Guaranty National Insurance Company ("Guaranty National") is a property and casualty insurer licensed to do business in the State of Washington.
2. The Office of the Insurance Commissioner ("OIC") performed a Market Conduct Examination of Guaranty National for the period October 1, 1998 to March 31, 1999. The examination covered activities relating to agent licensing, complaints, commercial underwriting, personal underwriting, commercial claims handling and personal claims handling. The Guaranty National examination report was adopted on March 8, 2000.
3. The OIC examined representative samples of policies from the time period of the examination. These samples were derived using techniques approved by the National Association of Insurance Commissioners.
4. In 23 instances Guaranty National issued policies using improper rates that were not in accordance with its filings then in effect. In these 23 instances the consumers were charged higher rates than were warranted.
5. In 11 instances, Guaranty National accepted applications for insurance that contained incomplete information and then issued policies without first obtaining the additional required information. In 7 of these instances, consumers were issued policies with premiums that were not in accordance with its filing then in effect. In these 7 instances the consumers were charged higher premiums than were warranted.
6. In 5 instances in which Guaranty National elected to insure eligible risks, it did not equitably administer and apply fairly its schedule rating plans. This led Guaranty National to charge improper rates to these 5 consumers.
7. In 17 instances Guaranty National failed to document the development of individual risk modifications pursuant to its schedule rating plans.
8. Guaranty National used 3 insurance policy forms that had not been filed with OIC.
9. Guaranty National issued 323 policies based on applications submitted by 3 agents who had

not been appointed by the company.

10. In 35 instances in which Guaranty National charged incorrect premiums and elected to make mid-term revisions, Guaranty National either failed to notify the applicant or insured of the nature of the error and the amount of additional premium required, or failed to notify the applicant or insured of the reason for the amount of the change.
11. In 33 instances Guaranty National made payments for claims to insureds or beneficiaries that were not accompanied by a statement setting forth the coverage under which the payments were being made.
12. In 11 instances Guaranty National failed to acknowledge within 10 working days pertinent communications from claimants which reasonably suggested that responses were expected.
13. In 1 instances Guaranty National failed to acknowledge the receipt of a notification of a claim within 10 working days.
14. In 10 instances Guaranty National failed to complete investigations of claims within thirty days after notification of the claims.
15. In 5 instances involving automobile total losses, Guaranty National failed to follow required standards for prompt, fair and equitable settlements.
16. In 4 instances where it was relevant, Guaranty National failed to provide insureds with a written explanation of the personal injury protection coverage provided by their policies.
17. In a minimum of 305 instances Guaranty National failed to conduct business in its own legal name.
18. In 1 instance Guaranty National failed to disclose to the insured the actual reason for refusing to renew insurance.

#### CONCLUSIONS OF LAW:

1. Guaranty National's issuance of 23 policies not in accordance with its filing then in effect, by using improper rates, constitutes a minimum of 23 violations of Revised Code of Washington ("RCW" 48.19.040(6);
2. Guaranty National's issuance of 11 policies not in accordance with its filing then in effect, by accepting incomplete applications for insurance and then issuing policies based on that information, constitutes a minimum of 11 violations of RCW 48.19.040(6);
3. Guaranty National's 5 failures to equitably administer and apply fairly its schedule rating plans constitute a minimum of 5 violations of Washington Administrative Code ("WAC") 284-24-100;
4. Guaranty National's 17 failures to document the development of individual risk modifications pursuant to its schedule rating plans constitute a minimum of 17 violations of WAC 284-24-100;
5. Guaranty National's use of 3 insurance policy forms without filing and approval constitutes a minimum of 3 violations of RCW 48.18.100;
6. Guaranty National's 3 failures to appoint agents constitute a minimum of 3 violations of RCW 48.17.160;
7. Guaranty National's 35 failures to notify applicants or insureds of the natures of incorrect premium errors and the amounts of additional premiums required (when the premium revision is necessary because of an error made by the insurer or its agent), or to notify the applicant or insurer of the reason for the amount of the change (when an incorrect premium has been charged resulting from erroneous or incomplete information supplied by the insured or applicant) constitute a minimum of 35 violations of WAC 284-30-590;
8. Guaranty National's 33 failures to provide a statement setting forth the coverage under which claims payments were made, when making payments for claims to insureds or beneficiaries, constitute a minimum of 33 violations of WAC 284-30-330;
9. Guaranty National's 11 failures to furnish appropriate replies within ten working days to pertinent communications from claimants which reasonably suggested that responses were expected constitute a minimum of 12 violations of WAC 284-30-360(3);
10. Guaranty National's failure to acknowledge the receipt of notification of a claim within ten working days violates WAC 284-30-360(1);
11. Guaranty National's 10 failures to complete investigations of claims within thirty days after notification of the claims constitute a minimum of 10 violations of WAC 284-30-370;
12. Guaranty National's 5 failures to follow required standards for prompt, fair and equitable settlements applicable to automobile insurance constitute a minimum of 5 violations of WAC

284-30-390;

13. Guaranty National's 5 failures to provide insureds with written explanations of the personal injury protection coverage provided by their policies, where it was relevant, constitute a minimum of 5 violations of WAC 284-30-395;
14. Guaranty National's 305 failures to conduct business in its own legal name constitute a minimum of 305 violations of RCW 48.05.190;
15. Guaranty National's failure to disclose the actual reason for refusing to renew insurance violates WAC 284-30-570.

CONSENT TO ORDER:

Guaranty National hereby admits to the foregoing Findings of Fact and Conclusions of Law. Guaranty National acknowledges its duty to comply fully with the applicable laws of the State of Washington.

The Commissioner has offered a settlement in lieu of suspending or revoking Guaranty National's certificate of authority.

By agreement of the parties, the OIC will impose a fine of \$218,000 upon Guaranty National, and suspend \$109,000, on condition that:

1. Guaranty National pays \$109,000 of the fine for its violations of Washington insurance law within 30 days of the entry of this Order.
2. Guaranty National follows the procedures in its Compliance Plan set forth in Exhibit 1.
3. Guaranty National commits no further violations of the statutes and regulations that are the subject of this Consent Order for a period of two years from the date on which this Consent Order is entered. The OIC will not impose the balance of the fine nor proceed against Guaranty National's certificate of authority should Guaranty National commit isolated, de minimis, violations of the statutes and regulations that are the subject of this consent order during the suspense period, as determined by the OIC. Guaranty National commits to rectifying such violations promptly once they are discovered.

This fine must be paid in full within thirty days of the entry of this Order. Pursuant to RCW 48.05.185, failure to pay the fine timely shall constitute grounds for the revocation of the insurer's certificate of authority, and for the recovery of the fine, including the suspended portion, in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

EXECUTED this 31st day of October, 2001 by:

GUARANTY NATIONAL INSURANCE COMPANY

Signed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Title: \_\_\_\_\_

ORDER:

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of Two Hundred Eighteen Thousand Dollars (\$218,000) upon Guaranty National Insurance Company, and suspends One Hundred Nine Thousand Dollars (\$109,000) under the conditions set forth in the

Consent to Order. One Hundred Nine Thousand Dollars (\$109,000) of the fine must be paid in full within thirty days of the entry of this order in Olympia, Washington. Failure to pay this portion of the fine and to comply with the stated conditions shall constitute grounds for recovery of the full fine, including the suspended portion, and for revocation of Guaranty National Insurance Company's certificate of authority in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT OLYMPIA, WASHINGTON, this 5th day of November, 2001.

MIKE KREIDLER  
Insurance Commissioner

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Meg L. Jones  
Legal Affairs Division  
Office of Insurance Commissioner